

UNITED STATES OF AMERICA
BEFORE THE
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY



H.Q. ENERGY SERVICES (U.S.) INC.) DOCKET NO. EA- 182-B

APPLICATION OF H.Q. ENERGY SERVICES (U.S.) INC.
FOR RENEWAL OF AUTHORITY TO TRANSMIT
ELECTRIC ENERGY TO CANADA

Pursuant to Section 202(e) of the Federal Power Act ("FPA"), 16 U.S.C. § 824a(e), and 10 C.F.R. § 205.300 *et seq.*, H.Q. Energy Services (U.S.) Inc. ("HQUS") hereby submits this application for a five-year extension of its blanket authorization to export electricity from the United States to Canada, previously granted by the Department of Energy ("DOE") in Order No. EA-182-A ("2000 Order"). HQUS requests that this authorization be made effective as of August 21, 2005, the date on which its current authority to export electricity from the United States to Canada expires, to prevent any lapse in authority. *See* 2000 Order at 4, 9.

I. DESCRIPTION OF APPLICANT

The exact legal name of the Applicant is H.Q. Energy Services (U.S.) Inc. HQUS is a corporation organized and existing under the laws of the State of Delaware, having its principal place of business at 345 Rouser Road, Coraopolis, Pennsylvania 15108. HQUS is a wholly-owned subsidiary of Hydro-Québec, a Crown corporation in the right of the Province of Québec. Hydro-Québec is engaged in the generation of power predominantly from hydroelectric sources and the transmission, distribution and sale of such power to wholesale and retail customers within Québec. Hydro-Québec has adopted a transmission tariff substantially in the form of the *pro forma* open access tariff that the Federal Energy Regulatory Commission ("FERC") issued in connection with Order Nos. 888 and 888-1. *See H.Q. Energy Services (U.S.) Inc.*, 79 FERC ¶ 61,152 (1997).

HQUS is an energy marketer engaged in the business of buying and selling electricity for its own account, as well as arranging fuel supplies, transmission services and related activities. HQUS is authorized by the FERC to sell electricity at wholesale in interstate commerce at negotiated rates pursuant to its FERC Rate Schedule No. 1. *See H.Q. Energy Services (U.S.) Inc.*, 81 FERC ¶ 61,184 (1997) (Attachment 1). HQUS does not own or operate any facilities for the generation, transmission or distribution of electricity in the United States or any other country, and neither HQUS nor any of its affiliates has a franchise or service territory for the transmission, distribution or sale of electricity in the United States.

The DOE previously authorized HQUS to export electricity from the United States to Canada, subject to certain conditions, for a five-year period beginning August 21, 2000. *See* 2000 Order at 4-9. HQUS requests an extension of this authority, enabling HQUS to continue exporting electricity from the United States to Canada through existing transmission facilities at the border between the United States and Canada, which are listed on Exhibit C to this Application.

II. COMMUNICATIONS

All correspondence and communications regarding this Application should be addressed to the following:

Hélène Cossette
Senior Legal Advisor
Legal and Regulatory Affairs
Wholesale Markets
Hydro-Québec Production
75, boulevard René-Lévesque West
17th Floor
Montréal, (Québec) Canada
H2Z 1A4
(514) 289-3146
Cossette.Helene@hydro.qc.ca

Jerry L. Pfeffer,*
Energy Industries Advisor
W. Mason Emnett
Skadden, Arps, Slate, Meagher & Flom
LLP
1440 New York Avenue, NW
Washington, DC 20005
(202) 371-7000
jpfeffer@skadden.com
wemnett@skadden.com

*Contact for questions or clarifications

III. JURISDICTION

HQUS does not know of any other Federal, State or local government agency having jurisdiction over the actions to be taken under the authority sought in this Application.

IV. TECHNICAL DISCUSSION OF PROPOSAL

Section 202(e) of the FPA and the DOE's regulations provide that exports should be allowed unless the proposed export would impair the sufficiency of electric power supply within the United States or would tend to impede the coordinated use of the United States power supply network. HQUS seeks blanket authority to transmit electric power to Canada as a power marketer. HQUS has no electric power supply system on which the proposed exports could have a reliability, fuel use or system stability impact. HQUS also has no native load obligations usually associated with a franchised service area. HQUS will purchase the power to be exported from a variety of persons such as power marketers, independent power producers or U.S. electric utilities and Federal power marketing agencies as those terms are defined in Sections 3(22) and 3(19) of the FPA. By definition, such power is surplus to the system of the generator and therefore the electric power that HQUS will export, on either a firm or interruptible basis, will not

impair the sufficiency of the electric power supply within the United States. *See Enron Power Marketing, Inc.*, Order No. EA-102 (Feb. 1996).

HQUS will make all necessary commercial arrangements and will obtain any and all other regulatory approvals required in order to effect any power exports. All of the electricity exported by HQUS will be transmitted pursuant to arrangements with utilities that own and operate existing transmission facilities and will be consistent with the export limitations and other terms and conditions contained in the existing Presidential Permits and electricity export authorizations associated with these transmission facilities. HQUS will schedule its transactions with the appropriate control areas in compliance with the reliability criteria, standards and guidelines of the North American Electric Reliability Council ("NERC") and its member regional councils in effect at the time of export. HQUS will obtain all necessary transmission access over the existing facilities listed in Exhibit C to effect its exports and will comply with all applicable statutes, rules, regulations and orders of the FERC.

HQUS respectfully requests that the DOE utilize the reliability analyses performed in the most recent export authorization proceedings for each border system whose transmission systems are listed in Exhibit C to make the findings required to grant export authority to HQUS. For exports over international transmission facilities for which export authorization has not been issued or for which reliability studies have not been performed, HQUS requests that the DOE rely upon the same transfer capability data relied upon in recent orders authorizing exports over those facilities. *See, e.g.*, Order No. EA-290 (June 23, 2004) (authorizing electricity exports to Canada by Ontario Power Generation, Inc.) ("OPG Order"); Order No. EA-262-A (May 19, 2004) (authorizing electricity exports to Canada by TransCanada Power Marketing, Inc.) ("TransCanada Order"). Specifically, those orders utilized load and capacity data compiled by the New York Independent System Operator ("NYISO") to determine the transfer capability for transmission facilities owned by the New York Power Authority ("NYPA"), which is non-jurisdictional to Section 202(e) of the FPA. In such cases, the DOE used NYISO load and capacity data to limit the cumulative exports over the transmission lines connecting New York State and Ontario that are authorized in PP-25, PP-30, PP-74 and PP-190 to a maximum transfer rate of 1650 MW.¹ A separate limit of 1,000 MW has

¹ HQUS notes that that over the past several years, NYISO operating studies show that the actual transfer capability over these transmission lines has fluctuated in the 1,650 MW range. The DOE has nonetheless established the same transfer limit of 1,650 MW in a number of recent order authorizing exports to Canada in addition to the OPG Order and TransCanada Order. *See* Order No. EA-292 at 3 and Ordering Paragraphs B(12)-(13) (July 6, 2004) (SESCO Enterprises, LLC); Order No. EA-291 at 3 and Ordering Paragraphs B(12)-(13) (June 24, 2004) (Dominion Energy Marketing, Inc.); Order No. EA-213-B at 3 and Ordering Paragraphs B(12)-(13) (May 19, 2004) (Coral Power, L.L.C.). In each of these orders, however, the DOE has determined that the actual level of transfers that may be scheduled on any border facility at any point in time will be limited by applicable reliability criteria.

been established for exports over NYPA's 765-kV tie with Hydro-Québec authorized in PP-56. *See* Order No. EA-290 at Ordering Paragraphs B(12)-(13); Order No. EA-262-A at Ordering Paragraphs B(12)-(13).

HQUS requests that these same limits be used in approving the instant application.² In support of this request, HQUS submits the attached affidavit of Jacques Robichaud, Commercial Delegate at Hydro-Québec Production, a division of Hydro-Québec, demonstrating that the requested authorization levels are appropriate. As noted in the Affidavit of Mr. Robichaud, the same export limits should apply to all participants in markets such as those in New York and Ontario where the relevant transmission facilities and interconnections are subject to the real time operating control of the NYISO and (Ontario) IESO respectively. Actual maximum transfer levels will be established on a real-time basis by the NYISO consistent with NERC reliability criteria. Therefore, notwithstanding an instantaneous transmission limit of 1,650 MW for the New York/Ontario transmission lines established by the DOE, actual transfers by HQUS over these lines will only be accommodated to the extent they comply with the NYISO's thermal and network stability limits. It is therefore appropriate to adopt herein for HQUS the same maximum transmission limits used in recent orders authorizing exports to Canada by similarly situated market participants, subject to the condition that actual schedules at any point in time will be determined by the NYISO.

Finally, HQUS requests that the DOE find that, because the proposed exports would take place over existing international transmission lines pursuant to authority identical to that previously granted, the requested authorization does not require the preparation of either an environmental impact statement or an environmental assessment pursuant to the National Environmental Policy Act of 1969 ("NEPA"). *See* 2000 Order at 3-4.

V. PROPOSED PROCEDURES

HQUS proposes to export electricity through the existing transmission facilities at the border between Canada and the United States as described and identified in Exhibit C and will comply with the applicable requirements of the FERC, NERC and export limitations associated with each facility. HQUS commits to furnish quarterly reports to the DOE, within 30 days following each calendar quarter, showing the gross amount of electricity delivered and the consideration received during each month of the previous quarter, and the maximum hourly rate of transmission across the United States border to Canada. HQUS seeks a continuance of its blanket authorization for exports for a minimum period of five years, which may be extended upon further application to the DOE.

² The 2000 Order limited exports by HQUS over the facilities authorized in PP-25, PP-30, PP-74, and P-190 to 550 MW, noting that HQUS could request a change to that export limit by submitting information demonstrating a change in the transmission transfer capability between New York State and Ontario. *See* 2000 Order at Ordering Paragraph C.

VI. EXHIBITS

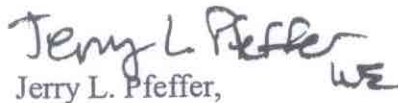
The following exhibits are attached hereto in compliance with DOE regulations (10 C.F.R. § 205.303):

- Exhibit A: There are no agreements at this time under which electricity is to be transmitted.
- Exhibit B: Legal opinion of HQUS' counsel is attached.
- Exhibit C: List of transmission facilities to be used is attached.
- Exhibit D: Applicant's principal office is within the United States. Therefore, no domestic agent is required.
- Exhibit E: Neither HQUS' corporate relationship with Hydro-Québec nor any existing contracts relate to the control or fixing of rates for the purchase, sale or transmission of electric energy.
- Exhibit F: Not applicable.
- Attachment 1: *H.Q. Energy Services (U.S.) Inc.*, 81 FERC ¶ 61,184 (1997).
- Attachment 2: Affidavit of Jacques Robichaud

VII. CONCLUSION

WHEREFORE, HQUS respectfully requests that the DOE grant this Application in an expeditious manner on substantially the same terms and conditions that apply to similarly situated electric power marketers.

Respectfully submitted,


Jerry L. Pfeffer,

Energy Industries Advisor
W. Mason Emnett
Skadden, Arps, Slate, Meagher & Flom LLP
1440 New York Avenue, NW
Washington, DC 20005
(202) 371-7000

Dated: May 18, 2005
Washington, D.C.



Une division d'Hydro-Québec

May 12, 2005

U.S. Department of Energy
Office of Fossil Energy
1000 Independence Avenue S.W.
Washington, DC 20585-0340

Hélène Cossette
Senior Legal Advisor
17th Floor
75, René-Lévesque Boulevard West
Montréal (Québec)
H2Z 1A4

Tél. : (514) 289-3146
Télec. : (514) 289-6217
C. élec. :
cossette.helene@hydro.qc.ca

Re: Application of H.Q. Energy Services (U.S.) Inc. for authority to transmit electric energy to
Canada

Pursuant to Section 205.303(b) of the regulations of the Department of Energy, I hereby provide a legal opinion regarding the corporate powers of H.Q. Energy Services (U.S.) Inc. ("HQUS") to export electricity to Canada. I have examined the Certificate of Incorporation and by-laws of HQUS and, based on my review of those documents, it is my opinion that the proposed importation and exportation of electricity is within the corporate powers of HQUS, subject to Section 202(3) of the Federal Power Act, 16 U.S.C. § 824a(e), and the rules and regulations issued thereunder, and that HQUS has taken all necessary action to authorize and direct its officers and agents to take all necessary steps to comply with all pertinent Federal and State laws in connection with the actions to be undertaken pursuant to the Application.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'Hélène Cossette'.

Hélène Cossette, lawyer

TRANSMISSION FACILITIES

<u>Permitee</u>	<u>Location</u>	<u>Voltage</u>	<u>Presidential Permit Number</u>
Basin Electric Power Cooperative	Tioga, ND	230 kV	PP-64
Bonneville Power Administration	Blaine, WA	2-500 kV	PP-10
	Nelway, WA	230 kV	PP-36
	Nelway, WA	230 kV	PP-46
Eastern Maine Electric Cooperative	Calais, ME	69 kV	PP-32
International Transmission Company	St. Clair, MI	345 kV	PP-230
	Marysville, MI	230 kV	PP-230
	Detroit, MI	230 kV	PP-230
	St. Clair, MI	345 kV	PP-230
Joint Owners of Highgate Project	Highgate, VT	120 kV	PP-82
Long Sault, Inc.	Massena, NY	2-115 kV	PP-24
Maine Electric Power Company	Houlton, ME	345 kV	PP-43
Maine Public Service Company	Limestone, ME	69 kV	PP-12
	Fort Fairfield, ME	69 kV	PP-12
	Aroostock County, ME	138 kV	PP-29
	Madawaska, ME	2-69 kV	PP-29
Minnesota Power & Light Company	International Falls, MN	115 kV	PP-78
Minnkota Power Cooperative, Inc.	Roseau County, MN	230 kV	PP-61
New York Power Authority	Massena, NY	765 kV	PP-56
	Massena, NY	2-230 kV	PP-25
	Niagara Falls, NY	2-345 kV	PP-74
	Devils Hole, NY	230 kV	PP-30

Niagara Mohawk Power Corp.	Devils Hole, NY	230 kV	PP-190
Northern States Power Company	Red River, ND	230 kV	PP-45
	Roseau County, MN	500 kV	PP-63
	Rugby, ND	230 kV	PP-231
Vermont Electric Power Company, Inc.	Derby Line, VT	120 kV	PP-66
Vermont Electric Transmission Company	Norton, VT	450 kV (DC)	PP-76